

Name: Weston David Allen

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FEB 20 11:05:05  
BY: [unclear] UTAH

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
central DIVISION

Weston David Allen

(Full Name)

PLAINTIFF

vs.

Clinton Friel, warden U.S.P.

Richard Michael Gaudin, M.D.

Kenneth G. Tobbs, M.D.

Berry Stone, P.A.

Terry Jetties, P.A., ET AL.

DEFENDANTS,

CIVIL RIGHTS COMPLAINT

(42 U.S.C §1983, §1985)

2:03CV-0173

TS 1

CIVIL NO. \_\_\_\_\_

(Supplied by Clerk)

A. JURISDICTION

1. Jurisdiction is proper in this court according to:

a. ☒ 42 U.S.C. §1983

b. ☐ 42 U.S.C. §1985

c. ☐ Other (Please Specify) \_\_\_\_\_

2. NAME OF PLAINTIFF Weston David Allen

IS A CITIZEN OF THE STATE OF Utah

PRESENT MAILING ADDRESS:

Cyril 1, 312, B

P.O. Box 250

Draper, VT 84020

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3. NAME OF FIRST DEFENDANT Clinton Friel et al.  
 IS A CITIZEN OF Salt Lake City, Utah  
 (City and State)

IS EMPLOYED AS Warden at Utah State Prison  
 (Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ☒ NO ☐. If your answer is "YES" briefly explain.

Warden Friel is responsible for the supervision of medical Dept. and the care and treatment of prisoners.

4. NAME OF SECOND DEFENDANT Dr. Richard Michael Garden  
 (If applicable)

IS A CITIZEN OF Salt Lake City, Utah  
 (City and State)

IS EMPLOYED AS Medical Director at U.S.P.  
 (Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ☒ NO ☐. If your answer is "YES" briefly explain.

Dr. Garden was Medical Director from Jan 1998 through Sept 1999 when he became Medical Administrator, which he still is.

5. NAME OF THIRD DEFENDANT Berry Stone, P.A.  
 (If applicable)

IS A CITIZEN OF Salt Lake City, Utah  
 (City and State)

IS EMPLOYED AS Medical Provider at VSP.  
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ☒ NO ☐. If your answer is "YES" briefly explain.

PA Stone was acting as a medical provider  
when he failed to treat me for Hepatitis C.

6. NAME OF FOURTH DEFENDANT Terry Jeffries, Jr., PA.  
(If applicable)

IS A CITIZEN OF Salt Lake City Utah  
(city and State)

IS EMPLOYED AS Medical provider at VSP.  
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ☒ NO ☐. If your answer is "YES" briefly explain.

PA. Jeffries was acting as a medical  
provider when he failed to treat me for  
Hepatitis C.

(Use additional sheets of paper if necessary.)

#### **B. NATURE OF CASE**

1. Why are you bringing this case to court? Please explain the circumstances that led to the problem.

~~I have a right to know if~~  
I have a serious medical problem, and a right  
to be medically treated for my serious  
medical needs. The poison I got these rights  
by failing to treat me for hepatitis C,

## C. Cause et Action

1. Medical records made by Keenan Tubbs MD on 6/11/02 Show That The prison Knew I had Hepatitis C, in 1998 (See hand numbered page 143 - a Attached).
2. I was not told I had hepatitis C, until 3/27/02. RA Raymond E. Merrill told me I should get treatment when I am paroled. (See RA Merrill note attached)
3. I asked for treatment, and on 6/11/02.
4. Treatment was denied.
5. I was refused treatment repeatedly.
6. I tried through all these levels without success.
7. ~~When~~ The prison first discovered I had hepatitis C, in 1998 treatment should have been given.
8. I should have been told I have hepatitis C, and so I could have gotten treatment.
9. If I had been told I had hepatitis C, before I was paroled, I could have taken precautions against infecting others.
10. Although hepatitis C may have a 20 to 30 year course, it may cause damage much sooner, especially when ordinary over the counter medications can cause liver damage, when hepatitis C is present.
11. I was unnecessarily subjected to liver damage pain and suffering.
12. I infected others, who now need treatment.
13. W.D.C has treated other inmates for hepatitis C.
14. Failure To Tell or Treat me violates my 14th Amendment right To Equal Protection.

and subjected me to cruel and unusual  
punishment under the Eighth Amendment.  
My 14<sup>th</sup> Amendment, Equal protection was violated.  
WDC has treated others for hepatitis C (see copy of  
S.L. TRIBUNE article attached)  
C. CAUSE OF ACTION

1. I allege that my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations: (If necessary you may attach additional pages)

8th Amendment

- a. (1) Count I: Deliberate indifference to serious medical needs,

- (2) Supporting Facts: (Describe exactly what each defendant did or did not do. State the facts clearly in your own words without citing legal authority or arguments.)

The failure to tell me that I have Hepatitis C  
in 1993 was intentional. Denial of treatment  
was also intentional when I learned I was infected  
and asked to be treated.  
PA, Jeffries told me that the prison would  
rather buy me a box (Coffin) than treat me.  
That says WDC's intent plainly. (See attached.)

8th Amendment

- b. (1) Count II: Cruel and unusual punishment

- (2) Supporting Facts: Denial of treatment increased  
my punishment beyond that ordered by

the court, Subjecting me to unnecessary  
pain, suffering and severe liver damage  
or death (See prison - Dr. Tubbs entry)  
(Harvard numbered p. 148, Above)

- c. (1) Count III: Falsifying government Documents intentionally
- (2) Supporting Facts: I was by DPA Raymond Merrill that on 3/22/62 that I have Hepatitis C. Dr. Jordan later claimed that I had told medical I had Hepatitis C, which is false. DR. Jordan falsified medical/government Documents about me. (See Medical & hearing records attached)

#### D. INJURY

1. How have you been injured by the actions of the defendant(s)?

Progressive liver damage from untreated Hepatitis C, and continuous pain from liver damage. Mental anguish from denial of treatment, and from knowing I infected my wife and others unintentionally after I was released with out being told I had Hepatitis C

#### E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1. Have you filed other lawsuits in state or federal court that deal with the same facts that are involved in this action or otherwise relate to the conditions of your imprisonment? YES    / NO   . If your answer is "YES," describe each lawsuit. (If there is more than one lawsuit, describe additional lawsuits on additional separate pages, using the same outline.)

- a. Parties to previous lawsuit:

d. (1) Count IV: Eighth Amendment violation, policy, custom and practice inflicted cruel unusual punishment.

(2) Supporting Facts: Medical Administration, R. Michael Gaudin, who is responsible for the policy, custom and practice directed the Medical Staff to deny me treatment until I have secured over \$4000 in order to save money. This causing me to go through pain and suffering, and may cost my life.

e. (1) Count V: Fourteenth Amendment violation of my right to Equal Protection.

(2) Supporting Facts: Prison Medical providers violated my Fourteenth Amendment rights when they ~~they~~ told other inmates that they have hepatitis C, and failed to tell me that I have it. I have just as much right to know as they do. (See cause of Action X See also Wm West Statement)

f. (1) Count VI: Fourteenth Amendment violation of my right to Equal Protection.

(2) Supporting Facts: When Prison Medical Providers denied me treatment for hepatitis C, and treated others. They failed to treat me similarly to similarly situated inmates. Their denial of treatment to me violated my right to Equal protection under the Fourteenth Amendment.

(See Cause of Action - Dated 6/11/02 entry)

Plaintiff(s): Wesley David Allen

Defendant(s): Clinton Friel and R. Michael Gorden, et al.

b. Name of court and case or docket number: C2C100322

c. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) Treat ment ordered, No appeal

d. Issues raised: I asked for Treatment  
for hepatitis C, and the court ~~denied~~ it

e. When did you file the lawsuit? July, 2002  
Date Month Year

f. When was it (will it be) decided? Relief ordered 11-1-02

2. Have you previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part C? YES X / NO \_\_\_\_\_. If your answer is "YES" briefly describe how relief was sought and the results. If your answer is "NO" explain why administrative relief was not sought.

I repeatedly asked for and was denied  
Treatment by the prison.

I Then grieved through all three levels,  
and was denied treatment. (Copies Attached)

#### **F. REQUEST FOR RELIEF**

1. I believe that I am entitled to the following relief:

Compensatory damages for medical and



legal costs; mental/emotional anguish,  
physical injury; exemplary/punitive damages  
To discourage future misconduct; correct false  
judicial records and any other relief the Court deems fit.

**DECLARATION UNDER PENALTY OF PERJURY**

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint, and that the information contained therein is true and correct. 28 U.S.C. §1746; 18 U.S.C. §1621.

Executed at S.F. Superior Ct. on 12-18 1902  
(Location) (Date)

Michael Allen  
Signature

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Exhibits/  
Attachments  
to this document  
have **not** been  
scanned.

Please see the  
case file.